

REMARKS

Applicants appreciate the Examiner's recognition that claims 2-3 and 9-20 are free of the prior art. Applicants also appreciate the courtesies extended by Examiner Lien Tran during an interview on August 1, 2003 with Applicants' attorney, Jeffrey A. Wolfson. The comments appearing herein are substantially in accord with those presented and discussed during the interview.

Claims 1-5 and 7-20, as amended, and new claims 21-22 appear in this application for the Examiner's review and consideration. Initially, claim 6 has been canceled without prejudice to Applicants rights to file a continuing application directed to this subject matter. Independent claims 1, 9, and 13 have been amended to recite that the wafer remains sufficiently flexible under ambient conditions for more than 40 seconds to 100 seconds after baking (*See, e.g.*, Specification at page 6, lines 33-35, which states that flexibility existed for over 100 seconds). Claim 1 has also been amended to recite only the cereal grits embodiment, while new claim 21 has been added to recite the reducing sugar portion of claim 1 in combination with the ratio of reducing sugar to sucrose. New claim 21 also recites the "to 100 seconds" feature of claims 1, 9, and 13. Claim 6 has been rewritten as new claim 22, since it properly depends from new claim 21. No new matter has been added by way of these amendments. Based on the comments regarding allowable subject matter in the Office Action, this should expedite the prosecution and place the application in condition for allowance.

Claims 1, 9, and 13 were rejected under 35 U.S.C. § 112, second paragraph, for claim language "more than 40 seconds to at least 70 seconds after baking" as being indefinite. As discussed in the previously submitted Amendment, the original disclosure clearly and explicitly states that "[i]mmmediately after baking, the sugar wafer was found to remain flexible *for over 100 seconds which is significantly longer than a standard wafer*" (emphasis added) (Specification at page 6, lines 33-35). Thus, "about 100 seconds" is explicitly supported even though the word "about" is not identically present. To expedite prosecution, however, Applicants have amended the independent claims to recite more than 40 seconds to 100 seconds. Thus, the rejection under 35 U.S.C. § 112, second paragraph, is believed to be moot for these reasons.

Claims 1 and 4-8 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,709,898 to Biggs et al. ("Biggs") in view of U.S. Patent No. 4,629,628 to Negro ("Negro") for the reasons recited on pages 2-3 of the Office Action. The Office Action states that the art of record does not teach adding cereal grits to the wafer disclosed by

Biggs and that there is no teaching in the art to change the ratio of sucrose to reducing sugar as to obtain the surprising and unexpected results of the presently claimed invention. Claim 1 has been amended to recite only the cereal grits portion of the claim, such that it should now be in condition for allowance. New claim 21 recites the reducing sugar and sucrose portion of claim 1, along with the ratio of those components to obtain the surprising results of the present invention. This is also patentable even in view of Biggs and Negro, as well as the previously cited art of record, as discussed at the interview. As such new independent claim 21 should also be patentable. Claim 6 has been rewritten as claim 22 so that it properly depends from claim 21. Thus, the rejection under 35 U.S.C. § 103(a) has been obviated, and Applicants respectfully request that it be reconsidered and withdrawn.

Applicants now believe all claims to be in condition for allowance. Should the Examiner not agree with this position, a telephone or personal interview is requested to resolve any remaining issues.

Respectfully submitted,

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Date

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8. A process for preparing a sugar wafer comprising baking the sugar wafer batter of claim 1 for 0.5 to 2 minutes at a temperature of from 140°C to 180°C to form a sugar wafer.

9. (Three Times Amended) A baked sugar wafer comprising fat, wheat flour, cereal grits, sucrose, and water, wherein the combination of fat, wheat flour, cereal grits, sucrose, and water account for at least 95 percent by weight of the sugar wafer; the amount of water in the sugar wafer is from about 0.5% to 6% by weight based on the weight of the sugar wafer; the sucrose is present in an amount of from 50 to 100 parts by weight per 100 parts by weight of the wheat flour and cereal grits; and the ratio of wheat flour to cereal grits to is from 10:90 to 80:20; and whereby the sugar wafer is sufficiently flexible under ambient conditions for more than 40 seconds to about 100 seconds after baking to enable further processing of the wafer.

10. The sugar wafer according to claim 9, further comprising one or more of milk, cream, milk powder, whole egg, egg powder, soya flour, salt, lecithin, vanilla crystals, or a raising agent.

11. (Amended) The sugar wafer of claim 10, wherein 20 percent to 80 percent of the sucrose is replaced with a reducing sugar component.

12. The sugar wafer according to claim 11, further comprising one or more of milk, cream, milk powder, whole egg, egg powder, soya flour, salt, lecithin, vanilla crystals, or a raising agent.

13. (Three Times Amended) A baked sugar wafer comprising fat, wheat flour, sucrose, a reducing sugar, and water, wherein the combination of fat, wheat flour, sucrose, a reducing sugar, and water account for at least 95 percent by weight of the sugar wafer; the amount of water in the sugar wafer is from about 0.5% to 6% by weight based on the weight of the sugar wafer; the sucrose and reducing sugar are present in an amount of from 50 to 100 parts by weight per 100 parts by weight of the wheat flour; and the ratio of sucrose to reducing sugar is from 80:20 to 20:80; and whereby the sugar wafer is sufficiently flexible under ambient conditions for more than 40 seconds to about 100 seconds after baking to enable further processing of the wafer.

14. The sugar wafer according to claim 13, further comprising one or more of milk, cream, milk powder, whole egg, egg powder, soya flour, salt, lecithin, vanilla crystals, or a raising agent.

15. A confectionery product comprising the sugar wafer of claim 9 and a second confectionery material having a water activity below 0.5, wherein the second confectionery material is in direct contact with the sugar wafer.

16. A confectionery product comprising the sugar wafer of claim 11 and a second confectionery material having a water activity below 0.5, wherein the second confectionery material is in direct contact with the sugar wafer.

17. A confectionery product comprising the sugar wafer of claim 13 and a second confectionery material having a water activity below 0.5, wherein the second confectionery material is in direct contact with the sugar wafer.

18. A confectionery product comprising the sugar wafer of claim 9, a second confectionery material, and a moisture barrier between the sugar wafer and the second confectionery material.

19. A confectionery product comprising the sugar wafer of claim 11, a second confectionery material, and a moisture barrier between the sugar wafer and the second confectionery material.

20. A confectionery product comprising the sugar wafer of claim 13, a second confectionery material, and a moisture barrier between the sugar wafer and the second confectionery material.